

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-22 are presently active in this case. The present Amendment amends Claims 1-4, 7, 8, 10, 13, 16-19 and 20 without introducing any new matter and cancels Claims 23-24.

The outstanding Office Action rejected Claims 1-12 and 23 under 35 U.S.C. §112, second paragraph, as indefinite. Claims 1-24 were rejected under 35 U.S.C. §103(a) as unpatentable over Downs et al. (U.S. Patent No. 6,226,618, herein "Downs") in view of Hannula et al. (U.S. Patent No. 6,366,893, herein "Hannula").

To correct minor formalities, Claims 1-4, 7, 8, 10, 16-19 and 20 are amended. Since the changes are only formal in nature, they are not believed to raise any question of new matter.

In response to the rejection under 35 U.S.C. §112, second paragraph, Claims 1 and 13 are amended to correct the noted informalities. In particular, Claims 1 and 13 are amended to recite "automatically contacting, by the communications terminal, the center at the time." In view of amended Claims 1 and 13, it is believed that all pending claims are definite and no further rejection on that basis is anticipated. If, however, the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work with the Examiner in a joint effort to derive mutually acceptable language.

In response to the rejections of Claims 1-24 under 35 U.S.C. §103(a), Applicants respectfully traverse the rejection.

First, Applicants note independent Claims 1 and 13 are amended to recite features of dependent Claims 23 and 24, respectively. Consequently, Claims 23-24 are canceled.

Applicants reserve the right to present Claims 1 and 13, or similar claims, in a continuation application and to address any traversed issues in such application.

Briefly recapitulating, Claim 1 relates to a method for ordering and transmitting digital media objects, including: transmitting an object order for digital media objects that includes at least one object identification by a mobile communications terminal over a mobile radio network to a center, transmitting data on a time at which an ordered media object is available by the center to the communications terminal, wherein the time is determined by the center with regards to optimal usage of resources used for a transmission of ordered media objects and is stored in the communications terminal, automatically contacting, by the communications terminal, the center at the time, transmitting a media object assigned to the object identification by the center via a radio network to the communications terminal, where the media object is stored in a memory, and playing back, by a media playback module of the communications terminal, a media content contained in the stored media object. Independent Claim 13 recites similar features in the context of a mobile communications terminal configured to receive data disseminated over a radio network and configured to communicate over a mobile radio network.

As explained in Applicants' Specification, Applicants' claimed invention improves upon background methods for ordering and transmitting digital media objects since media objects are transmitted at times selected by the center such that transmission resources are optimally used.¹ The automatic contacting of the center by the communications terminal presents the advantage that media objects are transmitted only when the communications terminal is ready and/or available. Accordingly, there is no waste of network bandwidth for transmitting media objects to a communications terminal that is not ready for reception of the media objects. In addition, there is also no waste of storage resources in the network that are

¹ See Applicants' Specification at page 10, lines 12-15.

associated with store and forward services required for storing media objects, when the communications terminal is not available.

Furthermore, the automatic contacting of the center by the communications terminal rather than transmitting media objects automatically from the center to the communications terminal allows the user to easily cancel an order for a media object, without using network resources for transmitting a cancellation, by merely deleting the transmission time stored in the communications terminal.

Turning now to the applied references, Downs discloses a secure container (SC) for distributing encrypted content and information to privileged users.² According to Downs, a SC has a property that identifies the time that the SC expires.³ Downs also describes an automatic metadata acquisition process which makes it possible to retrieve from the content provider as much data as possible without operator assistance.⁴ However, Downs does not teach or suggest anything regarding Applicants' claimed contacting automatically by the communications terminal the center at the time stored in the communications terminal.

Furthermore, Applicants respectfully submit that Downs does not teach or suggest anything about the time that is determined by the center with regards to optimal usage of resources used for transmission of ordered media objects, as newly claimed in the independent claims. The outstanding Office Action states that Downs "further discloses the method according to claim 1, wherein the time is determined by the center with regards to optimal usage of resources used for a transmission of ordered media objects."⁵ Applicants respectfully disagree.

² See Downs for example at column 7, lines 16-34.

³ See Downs for example at column 40, lines 62-65.

⁴ See Downs for example at column 58, lines 24-29.

⁵ See the outstanding Office Action at page 8, lines 1-3.

Downs only refers to secondary usage conditions such as content purchase price, pay-per-listen price, copy authorization, target device types, or timed-availability restrictions,⁶ and therefore refers to conditions and restrictions on the usage of media content. Downs is entirely silent on Applicants' claimed transmission time determined by the center with regards to optimal usage of transmission resources, and is also silent on contacting automatically the center by the communications terminal at the time determined by the center.

Further, the other reference Hannula used in the outstanding Office Action to form the 35 U.S.C. §103(a) rejection does not remedy the deficiencies of Downs. Hannula teaches a system and a method for performing an electric payment transaction in a telecommunication network. A special payment service gateway is used to route all the payment transactions.⁷ However, Hannula is silent on contacting automatically the center at the time stored in the communications terminal, and is also silent on a transmission time determined by the center with regards to optimal usage of transmission resources, as claimed. Hannula is merely concerned with adapting protocols for payment transaction.⁸ Therefore, even if the combination of Downs and Hannula is assumed to be proper, the combination fails to teach every element of the claimed invention. Accordingly, Applicants respectfully traverse, and request reconsideration of, this rejection based on these patents.⁹

The present amendment is submitted in accordance with the provisions of 37 C.F.R. §1.116, which after Final Rejection permits entry of amendments placing the claims in better form for consideration on appeal. As the present amendment is believed to overcome outstanding rejections under 35 U.S.C. §112, second paragraph and 35 U.S.C. §103(a), the

⁶ See Downs for example at column 10, lines 15-18.

⁷ See Hannula in the Abstract.

⁸ See Hannula for example at column 2, lines 3-19.

⁹ See MPEP 2142 stating, as one of the three "basic criteria [that] must be met" in order to establish a *prima facie* case of obviousness, that "the prior art reference (or references when combined) must teach or suggest all the claim limitations," (emphasis added). See also MPEP 2143.03: "All words in a claim must be considered in judging the patentability of that claim against the prior art."


present amendment places the application in better form for consideration on appeal. In addition, the present amendment is not believed to raise new issues because the changes to Claims 1 and 13 merely recite limitations previously introduced in Claims 23 and 24, and the changes to Claims 1-2, 4, 16-18 and 20 are of a minor nature. It is therefore respectfully requested that 37 C.F.R. §1.116 be liberally construed, and that the present amendment be entered.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 1-22 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,

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